

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

GARY GLENN PETERSON

§

v.

§

CIVIL ACTION NO. 5:24-CV-45-RWS-JBB

WARDEN, FCI-TEXARKANA

§

ORDER

Before the Court is Petitioner Gary Peterson's petition for writ of habeas corpus under 28 U.S.C. § 2241 challenging the legality of his continued confinement. Docket No. 1. The case was referred to United States Magistrate Judge Boone Baxter in accordance with 28 U.S.C. § 636.

On January 31, 2025, the Magistrate Judge issued a Report and Recommendation, recommending Respondent's motion to dismiss (Docket No. 11) be granted and the above-styled petition for the writ of habeas corpus be dismissed with prejudice for want of jurisdiction. Docket No. 13. According to the Magistrate Judge, the dismissal of the petition shall not prevent Petitioner from challenging the legality of his conviction through any lawful means, including but not limited to the seeking of leave from the Fifth Circuit Court of Appeals to file a successive § 2255 proceeding. *Id.* at 4.

Petitioner acknowledged receipt of the Report on February 4, 2025. Docket No. 14. To date, no objections have been filed.

Because no objections have been received, Petitioner is barred from *de novo* review by the District Judge of the Magistrate Judge's proposed findings, conclusions and recommendations. Moreover, except upon grounds of plain error an aggrieved party is barred from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v.*

Laxminarayan, Case No. 4:21-CV-00203- RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).

The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (where no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”). Accordingly, it is

ORDERED that the Report of the Magistrate Judge (Docket No. 13) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that Respondent’s motion to dismiss (Docket No. 11) is granted. It is further

ORDERED that the above-captioned petition for writ of habeas corpus is **DISMISSED WITH PREJUDICE** for want of jurisdiction. The dismissal of the petition shall not prevent Petitioner from challenging the legality of his conviction through any lawful means, including but not limited to the seeking of leave from the Fifth Circuit Court of Appeals to file a successive § 2255 proceeding.

So ORDERED and SIGNED this 3rd day of March, 2025.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE